



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

Date Mailed: May 27, 2016
MAHS Docket No.: 16-003572
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 28, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly process Petitioner's Medicare Savings Program (MSP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In or around June 2015 Petitioner submitted an application for MSP benefits.
2. Petitioner receives monthly unearned income from RSDI benefits. (Exhibit A, pp. 7-9)
3. The Social Security Administration (SSA) began withholding money from Petitioner's monthly RSDI benefit to pay his Medicare Part B premium effective June 2015. (Exhibit 2)

4. On June 24, 2015, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (Questionnaire) that he was instructed to complete and return to the Department by July 6, 2015. (Exhibit 1)
5. Petitioner confirmed receiving the Questionnaire.
6. On August 5, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that his application was denied effective June 1, 2015, ongoing, because he failed to return the Questionnaire. The Notice further informs Petitioner that he was entitled to request a hearing within 90 days of the mailing date of the Notice and that the Department must receive the request on or before November 3, 2015, or a hearing will not be granted. (Exhibit B)
7. Petitioner confirmed that the mailing address to which the August 5, 2015, Notice was sent was his correct mailing address and did not report any problems with receiving mail.
8. On September 23, 2015, Petitioner submitted a second application for MA and MSP benefits.
9. On October 16, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that he was approved for full coverage MA benefits effective September 1, 2015, and that he was also approved for full coverage MSP benefits effective October 1, 2015. Petitioner was approved for MSP benefits under the Qualified Medicare Beneficiaries (QMB) category. (Exhibit A, pp. 5-6)
10. Petitioner's SOLQ reflects a Part B Buy-In start date of November 1, 2015, with no stop date. (Exhibit A, pp. 7-9)
11. Petitioner confirmed receiving a refund/reimbursement from the SSA in the amount of \$209.80 on or around November 25, 2015.
12. On March 8, 2016, Petitioner submitted a hearing request disputing the Department's actions with respect to his QMB benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

MSP is part of the Medical Assistance (MA) program. The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

MSP are SSI-related MA categories and are neither Group 1 nor Group 2. BEM 165 (January 2015), p. 1. QMB is a full coverage MSP category that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. QMB coverage begins the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is not available for past months or the processing month. BEM 165, pp. 3-4.

In the present case, Petitioner requested a hearing disputing the Department's actions concerning his MSP benefits, specifically a refund/reimbursement of QMB benefits that he asserts he is entitled to for the period of June 2015 to December 2015 as a result of the denial of a June 2015 MSP application.

At the hearing, the Department testified that Petitioner's September 23, 2015, MA and MSP application was processed and that the Department determined Petitioner was eligible and approved for MSP benefits effective October 1, 2015. The Department notified Petitioner of the approval through a Notice dated October 16, 2015. The October 16, 2015, Notice further informs Petitioner that if Medicare premiums are being withheld from his monthly check currently, it may take about four months before changes to his Social Security check are made and that he will receive a refund from the SSA for premiums deducted since the effective date shown on the Notice (October 2015). See BAM 810 (July 2015); (Exhibit A, pp. 5-6). Petitioner confirmed that on or around November 25, 2015, he received a refund/reimbursement from the SSA in the amount of \$209.80, the equivalent of two months of Medicare Part B premiums. Based on the evidence presented, the Department established that it properly processed Petitioner's September 23, 2015, application for MSP benefits and approved him for QMB benefits with the correct begin date (October 2015). See BEM 165, p. 3. It was further established that Petitioner received a refund/reimbursement of Medicare premiums withheld.

At the hearing, Petitioner asserted that he was eligible for a refund/reimbursement of Medicare Part B premiums that were withheld from his monthly RSDI benefits beginning June 2015 and continuing to December 2015, despite already having received a two month refund on November 25, 2015. Petitioner initially stated that the SSA stopped withholding Medicare Part B premiums in December 2015 and that he received his full

RSDI benefit in December 2015 but later in the hearing stated that the premium was withheld in December 2015.

Petitioner testified that he applied for MSP benefits in June 2015 and that his application was improperly denied. It was established at the hearing that at some point in June 2015, the Department received an application for MSP benefits from Petitioner. In connection with the application, the Department instructed the Petitioner to complete and return the above referenced Questionnaire by the July 6, 2015, due date. (Exhibit 1). The Department stated that because the Questionnaire was not received by the due date, it sent Petitioner a Health Care Coverage Determination Notice on August 5, 2015, denying the application. (Exhibit B).

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p.2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp.4-5.

Although Petitioner maintained that he timely submitted the Questionnaire and that the denial of the June 2015 MSP application was improper, the August 5, 2015, denial Notice advised Petitioner that he had 90 days to request a hearing to appeal the information contained in the Notice and that the Department must receive the hearing request on or before November 3, 2015, or the hearing will not be granted. (Exhibit B). Petitioner did not submit a hearing request to dispute the Department's actions until March 8, 2016. (Exhibit A, pp.2- 3).

Petitioner stated that he did not receive the August 5, 2015, Notice and that he was notified of the denial because the SSA began withholding Medicare Part B premiums from his monthly RSDI check. Petitioner confirmed that the mailing address to which the Notice was sent was his correct mailing address and stated that he was not having any reported mail problems, thus, the Notice is presumed to have been received. See *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The Notice was properly addressed and Petitioner further confirmed receiving the Questionnaire which was mailed to the same address.

Therefore, because the Notice to Petitioner was dated August 5, 2015, and Petitioner did not request a hearing to dispute the denial of the application until March 8, 2016, the hearing request was not timely filed within ninety days of the written Health Care Coverage Determination Notice. As such, Petitioner's hearing request concerning the

denial of the June 2015 MSP application and reimbursement of QMB benefits for any period prior to October 2015 is therefore, DISMISSED for lack of jurisdiction.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it processed Petitioner's MSP benefits.

DECISION AND ORDER

Accordingly, the hearing request concerning the denial of the June 2015 MSP application is **DISMISSED** and Department's decision with respect to September 23, 2015, MSP application is **AFFIRMED**.



ZB/tlf

Zainab A. Baydoun

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

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